

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NIKE, INC.

Plaintiff,

v.

PUMA NORTH AMERICA, INC.

Defendant.

C. A. No. 1:18-cv-10876-LTS

AMENDED SCHEDULING ORDER

February 19, 2019

SOROKIN, D.J.

This Amended Scheduling Order is intended to provide a reasonable timetable for discovery and motion practice in order to help ensure a fair and just resolution of this matter without undue expense or delay.

Timetable for Discovery and Motion Practice

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, Local Rule 16.1(f), and Local Rule 16.6, it is hereby ORDERED that:

1. Preliminary Disclosures

- a. **Initial Disclosures**: Initial disclosures required by Fed. R. Civ. 26(a)(1) must be completed by **November 19, 2018**.
- b. **Automatic Patent-Related Disclosures**: By Monday, **December 10, 2018**, the patentee shall complete disclosures required under Local Rule 16.6(d)(1) for the patents asserted in the First Amended Complaint. By Tuesday, **February 19, 2019**, the patentee shall complete disclosures required under Local Rule 16.6(d)(1) for U.S. Patent No. 10,098,411 (the “‘411 patent”).
- c. **Preliminary Patent Disclosures Conference**: By Monday, **December 31, 2018**, the parties shall meet and confer pursuant to L.R. 16.6(d)(2) about the patents in the First Amended Complaint. By Monday, **March 11, 2019**, the parties shall meet and confer pursuant to L.R. 16.6(d)(2) about the ‘411 patent.

- d. Accused Infringer's Preliminary Disclosures and Productions: By Tuesday, **February 19, 2019**, the accused infringer shall complete the disclosures and productions required by L.R. 16.6(d)(4) for the patents asserted in the First Amended Complaint. By Friday, **May 3, 2019**, the patentee shall complete disclosures required under L. R. 16.6(d)(4) for the “411 patent”.
2. **Amendments to Pleadings.** Except for good cause shown, no motions seeking leave to add new parties or to amend the pleadings to assert new claims or defenses may be filed after Wednesday, **November 14, 2018**.
3. **Fact Discovery – Interim Deadlines**
 - a. Interrogatories, requests to produce, and requests for admission, pursuant to Federal Rules of Civil Procedure 33, 34, and 36, may be served beginning Monday, November 19, 2018. The parties agree to the limits on discovery set forth in the Federal Rules and Local Rules (*i.e.*, 10 depositions, 25 interrogatories, 25 requests for admissions, and 2 separate sets of requests for production).
 - b. All requests for production of documents and interrogatories must be served by Wednesday, **March 11, 2020**. All requests for admission must be served by Wednesday, **March 11, 2020**.
 - c. All depositions, other than expert depositions, must be completed by Friday, **April 3, 2020**.
 - d. Final Fact Discovery Deadline. All discovery, other than expert discovery, must be completed by Friday, **April 10, 2020**.
4. **Status Conference.** A status conference will be held on or about Friday, **January 10, 2020** before District Judge Leo T. Sorokin.
5. **Expert Discovery**
 - a. Trial experts for the party with the burden of proof must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed, by Friday, **May 8, 2020**.
 - b. Rebuttal trial experts must be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed, by Monday, **June 8, 2020**.
 - c. All trial experts must be deposed by Wednesday, **July 8, 2020**.
6. **Dispositive Motions**
 - a. Dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, must be filed by Tuesday,

July 21, 2020, with the opposition due thirty days thereafter. In the case of cross-motions the deadlines and page limits for the filings other than the Plaintiff's initial motion are set forth in the Session's Standing Order on Summary Judgment Motions unless specifically modified.

7. **Initial Pretrial Conference.** An initial pretrial conference will be held on or about **TBA**. The parties shall prepare and submit a pretrial memorandum in accordance with Local Rule 16.5(d) five business days prior to the date of the conference.

8. **Claim Construction Proceedings**

- a. **Exchange Proposed Claim Terms to be Construed:** By Friday, **May 17, 2019**, the parties shall simultaneously exchange a list of claim terms to be construed and their proposed constructions. L.R. 16.6(e)(1).
- b. **Conference on Proposed Claim Terms:** By Friday, **May 24, 2019**, the parties shall confer to see if agreement can be reached on the construction of claim terms and the number of claims to be considered.
- c. **Joint Statement:** By Friday, **May 31, 2019**, the parties shall file a joint statement of the number of claims and terms to be construed pursuant to L.R. 16.6(e)(1)(D).
- d. **Opening Claim Construction Briefs:** By Friday, **June 21, 2019**, the parties shall simultaneously exchange and file opening claim-construction briefs.
- e. **Expert Claim Construction Testimony:** Any expert whose testimony is relied upon by a party to support claim construction must be made available for deposition by Friday, **July 12, 2019**.
- f. **Responsive Briefs:** By Friday, **August 2, 2019**, the parties shall simultaneously exchange and file responsive briefs.
- g. **Claim Construction Hearing:** The Court shall conduct a Claim Construction Hearing on Tuesday, **October 8, 2019** before District Judge Leo T. Sorokin.

Procedural Provisions

1. **Extension of Deadlines.** Motions to extend or modify deadlines will be granted only for good cause shown. All motions to extend shall contain a brief statement of the reasons for the request; a summary of the discovery, if any, that remains to be taken; and a specific date when the requesting party expects to complete additional discovery, join other parties, amend the pleadings, or file a motion.
2. **Motions to Compel or Prevent Discovery.** Except for good cause shown, motions to compel discovery, motions for protective orders, motions to quash, motions to strike discovery responses, and similar motions must be filed no later than seven days after the close of fact discovery or the close of expert discovery, whichever deadline is relevant. If

additional discovery is compelled by the Court after the relevant deadline has passed, the Court may enter such additional orders relating to discovery as may be appropriate.

3. **Status Conferences.** The Court has scheduled a status conference after (or close to) the close of fact discovery for case management purposes. Any party who reasonably believes that a status conference will assist in the management or resolution of the case may request one from the Court upon reasonable notice to opposing counsel.
4. **Additional Conferences.** Upon request of counsel, or at the Court's own initiative, additional case-management or status conferences may be scheduled.
5. **Early Resolution of Issues.** The Court recognizes that, in some cases, resolution of one or more preliminary issues may remove a significant impediment to settlement or otherwise expedite resolution of the case. Counsel are encouraged to identify any such issues and to make appropriate motions at an early stage in the litigation.
6. **Pretrial Conference.** Lead trial counsel are required to attend any pretrial conference.

/s/ Leo T. Sorokin, United States District Judge
United States District Court

/s/ Maria Simeone
Deputy Clerk